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ordinance creating a city crematory for garbage, and making the collection of same by those not its officers unlawful, falls within the police power, and does not deny the constitutional right to engage in a lawful occupation.

The police power, or authority to make those rules which tend to protect the health, life, and safety of the people, extends to every relation in the state. *Cooley's Const. Law*, 3rd ed., pp. 250, 251. The courts are the final judges of this power. *Mugler v. Kansas*, 123 U. S. 623; *In re Jacobs*, 98 N. Y. 98. Everything prejudicial to the health or morals of a city may be removed. *Thurlow v. Commonwealth*, 5 How. 504, 571. Cities may prohibit peddling of certain kinds. *Shelton v. City of Mobile*, 30 Ala. 540. But the attempt of a government to appropriate any industry not of a public nature is an invasion of constitutional rights. *Herman v. State*, 8 Ind. 545.

CONTRACTS—BUILDING CONTRACTS—WAIVER OF BREACH.—*RYAN V. CURLEW CO.*, 104 PAC. 218 (UTAH).—*Held*, that the fact that the contractee in a building contract specifying the manner in which the work should be done, made no objections as the work proceeded, did not preclude him from asserting, when sued for the contract price, that the work had not been done in accordance with the contract.

Mere knowledge of a breach of contract does not constitute a waiver but there must be a formal release. *Pope Mfg. Co. v. Rubber Goods Mfg. Co.*, 97 N. Y. Supp. 73. But it has been held that objection that work was not satisfactory comes too late if not made till after work was done. *Lyons v. Dymond*, 23 La. Ann. 709. This rule has been followed on ground that failure to reject defective construction amounts to a waiver. *Ashland Lime Co. v. Shores*, 105 Wis. 122. Some courts hold that an amount necessary to make the work such as contract calls for may be deducted from the contract price. *Katz v. Belford*, 77 Cal. 319.

CORPORATIONS—NUISANCE—LIABILITY TO PRIVATE INDIVIDUALS.—*PICKENS V. COAL RIVER BOOM & TIMBER CO.*, 65 S. E. 865 (W. VA.).—*Held*, that a state charter giving a corporation power to do work which would otherwise be a nuisance, absolves the corporation from any liability as a public nuisance, but does not exempt it from liability for damages to an individual. *Williams, J., dissenting.*

A corporation acting under a charter giving it a power to do a public act is not liable for injuries to property rights of individuals. *Bailey v. Philadelphia, W. & B. R. Co.*, 44 Am. Dec. 593. Nor is a corporation responsible for the disturbance or injury to a franchise of another corporation if it exercises its powers in a manner contemplated by its charter. *Bordentown & Turnpike Road Co. v. Camden & A. Railroad & Transportation Co.*, 17 N. J. Law 314. But this is not so if it has in some way forfeited its charter rights or the charter has been rightfully modified by some statute. *Gowen v. Penobscot R. Co.*, 44 Me. 140. Nor does the charter afford any protection to those acting under it, if it is

either unconstitutional or void. *Chenango Bridge Co. v. Paige*, 83 N. Y. 178. But if the injury was direct and the work for which the corporation was chartered was constructed with private capital and for private emolument, the corporation is liable for damages to property. *Trenton Water Power Co. v. Raff*, 36 N. J. Law 335. Nor in such a case is the charter a defense against a suit by a town. *Hooksett v. Amoskeeg Mfg. Co.*, 44 N. H. 105. For unless the charter expressly grants the corporation the right to operate so as to render it a nuisance, the mere fact of incorporation confers upon it no greater rights than those of a natural person in the same situation. *Powell v. Brookfield P. B. & Title Mfg. Co.*, 104 Mo. App. 713. And the fact that there was no wilful or unnecessary damage does not free it from liability. *New Albany & S. R. Co. v. Huff*, 19 Ind. 315. And this is true, although no remedy is provided for in its charter. *Indiana Cent. R. Co. v. Boden*, 10 Ind. 96. But if a certain remedy is provided in the statute, that remedy only can be given. *Hazen v. Essex Co.*, 66 Mass. 475.

COURTS—PREVENTING INJURY TO REAL PROPERTY—JURISDICTION OF COURT.—*CALIFORNIA DEVELOPMENT CO. V. NEW LIVERPOOL SALT CO.*, 172 FED. 792.—A court of equity having jurisdiction of the parties may, it was held, enjoin a continuing injury to real property within its jurisdiction by flooding caused by the improper construction of works maintained by defendant for diverting the water of a river into a canal, although such works are across the boundary within the republic of Mexico.

The weight of authority seems to be that where a court has jurisdiction over the parties, it may issue an injunction to enjoin a nuisance arising in another jurisdiction. *Ewing v. Ewing*, 9 App. Cas. 34; *Monnett v. Turpie*, 132 Ind. 482; *Alexander v. Tolleston Club*, 110 Ill. 65. The jurisdiction of a court may be determined by the place where the injury is received. *Georgia Central R. Co. v. Dorsey*, 116 Ga. 719. It was held in *Stillman v. White Rock Mfg. Co.*, Fed. Cas. No. 13446, where there was an injury to mills situated in one state by acts done in another, the courts of the state in which the injury was done had a right of action which they could enforce by injunction in the other state. Equity courts of one state may also assume jurisdiction where a less circuitous and better remedy can be given than is afforded by another state; *Richardson v. Williams*, 56 N. C. 116; or grant relief in case of a doubtful jurisdiction. *Adriance v. New York*, 1 Barb. 19 (N. Y.). But there is no jurisdiction to enjoin the doing of the threatened acts in another state nor to compel the undoing of the same if done. *At. & Pac. Tel. Co. v. B. & O. A. Co.*, 46 N. Y. Super Ct. 377.

CRIMINAL LAW—EVIDENCE—EXHIBITION OF CHILD TO JURY.—*STATE V. HUNT*, 112 N. W. 902 (IA.).—Held, that in a prosecution for seduction, it is error to exhibit prosecutrix's child, only a few months old, to the jury to determine a supposed resemblance to the defendant.

It is well settled that evidence of a resemblance of a child to its putative father, being but matter of opinion, is inadmissible. *Eddy v.*